



# **PAPUA NATIVE LANDOWNERS ASSOCIATION INC.**

P.O BOX 395, WATERFRONT, 121 KONEDOBU, NATIONAL CAPITAL DISTRICT, PAPUA, PNG.  
TELEPHONE: (675) 76354177, (675) 7837 5897 EMAIL: pnlainc@gmail.com

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## **Universal Periodic Review (UPR) of Papua New Guinea 53rd UPR Session (2 – 13 November 2026)**

### **ENVIRONMENT AND CUSTOMARY LAND RIGHTS IN PAPUA NEW GUINEA**

#### **Aligning National Practice with United Nations Standards and Papua New Guinea’s International Commitments**

##### **Joint Stakeholders Submission by**



##### **Papua Native Landowners Association Incorporated**

The Papua Native Landowners Association Incorporated (PNLA) works to protect and strengthen customary land ownership systems as the foundation of environmental stewardship in Papua New Guinea. Its activities include advocating for legal recognition of customary land rights, opposing land alienation and forced evictions, and promoting governance models led by clan and tribal authorities rather than imposed registration systems. PNLA also supports communities affected by environmental degradation from mining, logging, and large-scale developments by documenting land ownership, cultural heritage, and ecological knowledge. It raises awareness on the link between customary land tenure and sustainable environmental management, while pushing for stronger laws and policies to safeguard forests, rivers, seas, and the rights of Indigenous Peoples, including those impacted by climate change and displacement.



##### **Humanity and Nature Indigenous Women’s Association Inc,**

haniwai.org, is a feminist civic. and advocacy organization founded and led by Indigenous women in Papua New Guinea. Rooted in Melanesian traditions and extending solidarity across the Pacific including Torres. Strait Islands, West Papua, New Caledonia, and other Indigenous nations, HANIWAI champions the rights, sovereignty, and dignity of Indigenous peoples. The organization integrates advocacy, peacebuilding, and intersectional inclusion to advance human rights, climate justice, and sustainable development. HANIWAI envisions a Pacific where Indigenous women and community’s exercise. sovereignty over land, sea, and resources, free from forced displacement, systemic marginalization, and digital violence. Its mission is to protect biodiversity and preserve. languages and cultures, and secure human rights through coalition-building, grassroots empowerment, and international advocacy.



**IIMA – Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco**

IIMA is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 97 countries where it provides education to children and adolescents, youth and women, particularly the most disadvantaged and vulnerable.



**VIDES – International Volunteerism Organization for Women, Education and Development**

Established in 1987, VIDES International is an international NGO in special consultative status with the United Nations Economic and Social Council operating in 49 countries. It promotes volunteer service at the local and international levels to ensure the implementation of human rights to vulnerable groups, especially children and women.



**Daughters of Mary Help of Christians (Salesian Sisters of St. John Bosco) – FMA Philippines-Papua New Guinea Province**

is a Catholic religious congregation for the education of youth founded in Italy in 1872 by Don Bosco and Mother Mazzarello. In Papua New Guinea, they run a Vocational Training and Flexible Distant Open Education (FODE) Centre giving second chances to marginalized

young women by offering them holistic, quality hands-on skills training which enables them to be empowered agents of change in society, giving them a voice to be advocates of human rights especially the rights of women and children and preparing them to be good leaders in their families and communities.



**Badiri Vamaga Clan ILG** is a formally incorporated Indigenous Land Group representing members of the Koitabu people, the traditional landowners of the Port Moresby area in Papua New Guinea. Established to safeguard customary land rights and cultural heritage, the ILG serves as a legal and administrative body through which clan members collectively manage, protect, and make decisions over their

ancestral lands in accordance with both customary law and national legislation. It plays a vital role in ensuring that development activities, land use, and external engagements respect the principles of free, prior, and informed consent while promoting the social, economic, and cultural wellbeing of its members and future generations.



The **Motu Koita Assembly** is a statutory body established under the *Motu Koita Assembly Act 2007* to represent the Motu and Koita peoples, the traditional landowners of the National Capital District (NCD) in Papua New Guinea. Its mandate is to safeguard the rights, interests, and welfare of customary landowners, including the management of land use, natural resources, and community development programs. The

Assembly is responsible for ensuring that decisions affecting Motu Koita lands incorporate Free, Prior, and Informed Consent (FPIC) principles, and that benefits from land use and urban development—such as lease revenues or infrastructure projects—are equitably shared with the traditional landowners. In addition, it promotes cultural preservation, facilitates dispute resolution, and advocates for socio-economic improvements in Motu Koita communities, aiming to strengthen Indigenous governance and ensure the continued participation of customary owners in decisions impacting their lands and resources.

## Executive Summary

1. This submission examines the urgent intersection of environmental degradation and customary land rights in Papua New Guinea (PNG), where approximately 97% of land is under constitutionally protected customary tenure. Despite this framework, customary landowners face escalating threats from extractive industries and inconsistent legal protections. The present submission documents key challenges, outlines PNG's obligations under core United Nations treaties and declarations, and provides actionable recommendations. Immediate action and reforms by the Government of Papua New Guinea are necessary to ensure meaningful consultation, environmental safeguards, and access to justice, in full alignment with international human rights standards to strengthen protections and uphold the rights of its Indigenous Peoples (SECTION I).

2. Additionally, this submission presents specific case studies: Sigite Mukus Oil Palm Project West Pomio (SECTION II); Yule Island (Ravao) – Land Rights, Customary Ownership, and Climate Justice (SECTION III); Motu Koita (Port Moresby) – Urbanization, Customary Land, and Indigenous Peoples' Rights (SECTION IV). Each section conveys relevant recommendations to the Government of PNG.

## Introduction

3. Papua New Guinea features a unique land tenure system: approximately 97% of its territory is held under customary ownership, a status protected by the nation's Constitution. For Indigenous Peoples, customary land is the foundation of identity, culture, and economic survival. However, the intersection of environmental challenges and customary land rights has become increasingly fraught. This submission analyzes these issues in the context of PNG's obligations under the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In the previous UPR of PNG, held in November 2021, a few recommendations were addressed to PNG on the theme of business and human rights, as well as on environment and climate change related issues.

## SECTION I

### A. Current Situation

4. For Papua New Guineans, land is more than a resource—it is identity, culture, heritage, and livelihood. Customary systems and Indigenous knowledge have governed land management for generations. However, increasing pressures from extractive industries, weak oversight, and certain policies threaten customary land rights. Deforestation, pollution, marine habitat destruction, and biodiversity loss are escalating due to unsustainable resource extraction, contributing significantly to greenhouse gas emissions. Environmental harm impacts not only ecology but also the economic and cultural foundations of Indigenous communities. Rivers, forests, and sacred sites are central to survival and heritage. When land is damaged or taken without proper consent, it jeopardizes the well-being and cultural continuity of entire communities.

5. Although PNG's Constitution recognizes customary tenure and traditional governance, legislative and administrative actions have sometimes undermined these protections. Amendments to environmental laws have enabled some projects to proceed without landowner consent, raising concerns about participatory rights and accountability. Customary landowners face barriers to contesting environmental harm, including high litigation costs, geographic isolation, and resource disparities.

6. Customary landowners in Papua New Guinea are increasingly vulnerable to large-scale development projects, including logging and mining, which often proceed without comprehensive community consultation or adequate environmental safeguards. These activities contribute to widespread deforestation, biodiversity loss, soil erosion, and contamination of rivers and coastal waters. Such environmental degradation undermines food security, public health, and the traditional ways of life that are central to Indigenous communities.

## B. Legal and Policy Framework

7. Papua New Guinea is party to international human rights treaties, including the ICCPR, ICESCR, CEDAW, CERD, and CRC, which establish obligations for non-discrimination, community protection, and the safeguarding of social, economic, and cultural rights. PNG also supports the principles of the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), which affirms the right of Indigenous Peoples to maintain institutions, traditions, and relationships to traditional lands, and requires Free, Prior, and Informed Consent for projects affecting Indigenous territories. The Constitution of Papua New Guinea formally recognizes customary land rights and Indigenous ownership. Accordingly, PNG bears international and national legal obligations to protect land rights, cultural heritage, environmental quality, and equality. Despite these commitments, full implementation of international standards for Indigenous Peoples remains incomplete in PNG, particularly regarding the requirement for Free, Prior, and Informed Consent (FPIC) and the facilitation of effective community participation in decision-making processes.

## C. Key Challenges

8. At present, the following major human rights challenges are affecting indigenous peoples in Papua New Guinea:

- **Environmental Degradation:** Unregulated extractive industries are driving large-scale forest loss, soil erosion, and water pollution, with severe consequences for community health and livelihoods. Environmental degradation in Papua New Guinea remains intricately linked to human rights violations, particularly for Indigenous communities dependent on land, forests, and marine ecosystems for subsistence. Extensive logging and land clearing, particularly under large scale agriculture and logging concessions, contributes to deforestation, biodiversity loss and rivers and coastal ecosystems contamination, directly affecting food security, access to clean water, and community health and cultural survival. Despite previous UPR recommendations and the Environment Act 2000, enforcement of environmental and land protections remains weak, with limited monitoring and accountability mechanisms.
- **Insufficient Consultation and Consent:** Free, Prior and Informed Consent (FPIC) not consistently obtained or enforced. Consultation processes routinely

exclude significant portions of customary landowners, failing to meet the FPIC standard required by UNDRIP and diminishing community agency. The misuse of land conversion mechanisms, particularly Special Agricultural and Business Leases, has resulted in the leasing of over 5 million hectares of land without proper consent, as identified in the SABL Commission of Inquiry.

- **Limited Legal Recourse:** High legal costs, restricted access to courts, and low legal awareness in the indigenous community hinder landowners' ability to defend their rights or seek redress for environmental harm, making it difficult to challenge unlawful land acquisitions. This contributes to a pattern where violations persist with minimal accountability, as in Yule Case of Ebo Ebo Lighthouse Case CPC 50/2011. From 2005 till today, this case has currently been referred to a Judicial Review of the Dismissal of a District Land Court Order and Appeal by Provincial Land Court.
- **Implementation Gaps:** Despite acceptance of previous UPR recommendations and constitutional recognition, and enforcement of customary land rights and environmental standards remains inadequate, particularly in rural and resource-affected areas. Regulatory institutions are under resourced, and environmental and land laws are inconsistently applied. As a result, breaches often occur without sanction, undermining Papua New Guinea's compliance with international and national obligations.

### **Land Rights: Violations of Customary land tenure.**

9. Customary landforms the bedrock of life in Papua New Guinea, encompassing about 97% of the country and constitutionally protected. However, Papua New Guinea continues to face serious challenges in protecting customary land rights and the environment despite constitutional recognition and previous UPR recommendations. In particular, during the UPR of PNG held in 2021, recommendations n. 144.65 "Consider developing a national action plan on human rights including the business sector (Indonesia)" and n. 144.66 "Develop a national action plan in line with the Guiding Principles on Business and Human Rights, with the aim of promoting respect for human rights in the context of business activities (Japan)", were supported by PNG.<sup>1</sup> Yet, landowners remain exposed to the negative impacts of logging, mining, and other large-scale developments, which degrade forests, rivers, and coastal zones. This environmental harm threatens the livelihoods, health, and cultural identity of Indigenous communities, who rely on land and sea for sustenance and tradition.

10. Customary landowners, who hold approximately 97 percent of land, are frequently excluded from genuine decision-making processes. Free, Prior and Informed Consent (FPIC) is not consistently obtained or legally enforced. Many communities report that consultations are limited and do not always involve all customary landowners. Access to justice is further restricted by high legal costs, systemic delays, and low legal awareness, particularly in rural areas. The continued misuse of land conversion mechanisms, particularly Special Agricultural and Business Leases (SABLs), has resulted in large scale dispossession. The SABL scandal (2011) saw over 5 million hectares leased without proper consultation.

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review of Papua New Guinea, 30 December 2021, UN Doc. A/HRC/49/11. Source of Position: A/HRC/49/11/Add.1.

11. The Sigite Mukus Oil Palm Project in West Pomio demonstrates these failures, where approximately 60,000 hectares of customary land from 133 clans were converted without genuine consent, involving coercion, lack of legal advice, and fraudulent representation. Landowners report long term nonpayment of royalties and lack of transparency in benefit sharing. For more information, please refer to Section II of this Submission (Case study: Sigite Mukus Oil Palm Project West Pomio).

### **Environmental protection and Climate Change impact**

12. During the UPR of PNG held in 2021, environmental concerns were expressed through recommendations n. 144.58 “Maintain the various environmental protection measures by ensuring the strengthening of the body of environmental legislation (Morocco)”<sup>2</sup>; and 144.61 “Continue to take more effective measures to ensure that large-scale projects meet environmental standards (Algeria)”. Moreover, recommendations n. 144.59 “Continue to implement measures to adequately protect the population from the risks of unavoidable natural disasters due to climate change, in accordance with its environmental legislation and good practices (Haiti)”<sup>2</sup>; 144.60 “Implement a solid policy to combat climate change, and advocate for climate action by all nations (Vanuatu)”<sup>2</sup>; 144.62 “Ensure the meaningful participation of women, children, persons with disabilities and local communities in the development and implementation of climate change and disaster risk reduction frameworks (Fiji)”<sup>2</sup>; and 144.63 “Guarantee the participation of civil society, and its equality of treatment and the diversity of its representation, in the development of climate and environmental policies (Switzerland)”<sup>2</sup>, were addressed to PNG. All the abovementioned recommendations were supported by PNG.<sup>2</sup> However, environmental degradation linked to logging, mining, and large-scale agriculture has resulted in deforestation, water pollution, biodiversity loss, and destruction of subsistence livelihoods. Enforcement of the Environment Act 2000 remains weak, with limited monitoring and accountability.

13. Cultural heritage, including sacred and burial sites, continues to be destroyed without consultation or protection. Similar risks are present in coastal and island regions, including Yule Island, where development threatens fragile ecosystems and customary tenure systems. Coastal and Inland areas, including Yule Island, face increasing risks from resource extraction and infrastructure development. Concerns include lack of transparent consultation, threats to marine ecosystems, and impacts on customary land tenure and subsistence livelihoods. Environmental impact assessments and monitoring remain inconsistent. For further information, refer to SECTION III of this Submission (Case Study: Yule Island).

14. Rapid urbanization in Port Moresby is intensifying pressure on customary land, particularly affecting Motu-Koita landowners. Expansion of informal settlements, encroachment without consent or compensation, and lack of recognition of customary tenure in urban planning frameworks are contributing to marginalization and land disputes. Rural–urban migration, including climate-related displacement, is further increasing social and land pressures. For further information, refer to SECTION IV of this Submission (Case Study: Motu-Koita Koiari Indigenous Peoples).

15. Climate change intensifies these challenges, as PNG faces increasing risks from sea level rise, coastal erosion, extreme weather, environmental decline, and displacement, with no comprehensive legal framework addressing climate induced displacement. Many communities already experience impacts that threaten their homes, food sources, and cultural practices. Indigenous communities are not only victims but also stewards of their

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<sup>2</sup> Report of the Working Group on the Universal Periodic Review of Papua New Guinea, 30 December 2021, UN Doc. A/HRC/49/11. Source of Position: A/HRC/49/11/Add.1.

environments; reinforcing customary land rights supports both conservation and climate resilience. For many, forests, waterways, reefs, and mountains are living territories that embody history, culture, and future prospects. Stronger protection of customary land rights, inclusive consultation, and improved access to justice are essential to ensuring that development in Papua New Guinea respects the rights, culture, and environment of Indigenous Peoples. Despite the UPR recommendations addressed to the government of PNG in 2021, implementation remains limited, with persistent gaps in enforcement, accountability, and inclusion of Indigenous communities, particularly women

## D. Recommendations to the Government of Papua New Guinea

16. This NGO Coalition recommends the Government of PNG to:

- a) Mandate meaningful consultation and secure Free, Prior, and Informed Consent from all affected customary landholding groups for development projects, in line with UNDRIP and ICCPR.
- b) Strengthen environmental governance through robust monitoring and enforcement to ensure that extractive industries comply with national and international standards.
- c) Expand legal support and awareness programs for customary landowners and rural communities, thereby improving access to justice in accordance with ICCPR and CEDAW.
- d) Formally recognize and integrate customary governance systems and traditional stewardship practices into national policy, building on their demonstrated effectiveness in resource management.
- e) Promote transparency and accountability through public disclosure of development contracts and environmental impact assessments, enabling meaningful participation and oversight.
- f) Establish comprehensive accountability mechanisms to provide remedy, compensation, and restoration for communities harmed by environmental damage.
- g) Develop and implement a legal and policy framework addressing climate-induced displacement, including protection of land, culture, and livelihoods.
- h) Ensure protection of coastal and island communities by suspending environmentally harmful projects that proceed without Free, Prior and Informed Consent and adequate safeguards.
- i) Recognize and integrate customary land tenure within urban development frameworks, including a targeted approach for Motu-Koita landowners.
- j) Strengthen accountability of extractive industries through transparent environmental impact assessments, independent monitoring, and enforcement mechanisms.

## E. Conclusion

17. The Government of Papua New Guinea is called upon to reinforce legal and environmental protections for customary landowners, fully aligning national laws and practices with United Nations standards and international human rights obligations.

Effective implementation of Free, Prior, and Informed Consent, robust environmental safeguards, and accessible legal support are essential to uphold Indigenous rights and fulfill PNG's commitments under the Universal Periodic Review and the broader international human rights legal framework.

## SECTION II

### Case Study: Sigite Mukus Oil Palm Project West Pomio

18. The Sigite Mukus Integrated Rural Development Project comprises some 60,000 hectares of forests and oil palm plantations in the West Pomio area of East New Britain Province of Papua New Guinea. Before, this was traditional customary land belonging to some 133 clans. It was converted from customary land to State lease through the Special Agricultural and Business Lease (SABL) arrangement. The people of West Pomio are vulnerable people following a semi-subsistence lifestyle relying totally on their land for food and housing materials. The project has been marked by long-standing disputes over land rights and illegal logging, leading to calls for, and the undertaking of, renegotiations with local landowners.

19. The project is run by [Gilford Limited](#), a wholly-owned subsidiary of the Malaysian company Rimbunan Hijau<sup>3</sup>. The project comprises four sub-lease agreements between Gilford Ltd and the following land-owning companies: Pomata Investment Ltd, Rolopal Investment Ltd, Nakiura Investment Ltd, and Unung Sigite Ltd. Controversy exist over the legitimacy, representation and roles of shareholders and directors in these companies<sup>4</sup>. Yet, landowners have not received payment for land rental or logging royalties since 2014.

20. In order to assess the harm caused by the project, the Catholic Church in PNG undertook an environmental audit which identified the environmental devastation and the breaches of legislation such as the Environmental Act 2000 caused by project operations<sup>5</sup>. Damage reported included soil erosion on steep slopes cleared for palm oil trees, lack of puffer zones to protect water sources from pollution thus putting the availability of safe drinking water at risk, diminishing fish populations that serve as food stock for the population or floodings caused by wide-spread clearcutting<sup>6</sup>. Rimbunan Hijau is not a member of the Round Table on Sustainable Palm Oil (RSPO) thus lacking acknowledgement of these internationally recognized environmental standards.

#### **21. Recommendations to the Government of PNG:**

- a) Prevent, investigate, punish, and redress human rights violations committed by the business sector within the jurisdiction of Papua New Guinea.
- b) Consider developing a national action plan following the UN Guiding Principles on Business and Human Rights, with the aim of promoting respect for human rights in the business sector.

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<sup>3</sup> Hambloch, Caroline (2018) Land formalization turned land rush: the case of the palm oil industry in Papua New Guinea (<https://actnowpng.org/publications/land-formalisation-turned-land-rush>)

<sup>4</sup> [PNG landowners and loggers to re-negotiate deal | RNZ](#)

<sup>5</sup> Tom Vigas and Paul Maliou Environmental Impact Audit Sigite Mukus Oil Palm Project September 2020.

<sup>6</sup> Complaint to Environmental Protection Authority by Memalo Holdings July 2024.

- c) Introduce legislation towards mandatory human rights and environmental due diligence, with the view to increase oversight over the logging and extractive industries on promoting the respect for human rights by the business sector.
- d) Respond appropriately to stop and prevent illegal logging and ensure that all logging activities are based on respect for fundamental human rights and environmental protection.
- e) Guarantee the participation of civil society, and its equality of treatment and the diversity of its representation, in the development of climate and environmental policies.
- f) Introducing legislation on the right to information that is in line with best international standards, with the view to strengthening the right to freedom of expression and peaceful assembly.

### **Labor Rights**

22. The Sigite Mukus Integrated Rural Development Project Group employs an estimated more than 6,000 people in all its operations<sup>7</sup>. Employment conditions reveal some serious human and labour rights violations including paying significantly under the minimum wage of K3.50 per hour, or employing casual workers for extended periods of time. Whereas PNG laws limit casual working contracts to a maximum of three months, some casual workers are employed for several years, which means missing out on significant employment benefits such as entitlements to holiday leave, superannuation, or long service leave. Also, casual workers often lack protective clothing when dealing with agrochemicals.

23. A number of workplace injuries and death occurred which have not been reported as required under the Accident Compensation section. Up until 2021 there were 14 reported deaths. None of these were thoroughly investigated and there was no proper compensation paid<sup>8</sup>. Termination frequently occurs without proper reasons or written explanation given, and living conditions are often appalling, leaving workers without access to safe sources of water, proper sanitation, or cooking facilities<sup>9</sup>.

### **24. Recommendations to the Government of PNG:**

- a) Undertake regular and comprehensive labor inspections on agricultural development projects and other business enterprises for potential violations of statutes including, but not limited to, the Employment Act, the Industrial Health, Safety and Welfare Act, the Workers Compensation Act, and the Road Traffic Act. Where applicable, impose relevant penalties.
- b) Freeze the issuance of new forest clearance authorities (FCAs) and cancel existing FCAs except where the holder can prove they are complying with all national, customary, and international laws and have obtained free, prior, and informed consent (FPIC) from local communities to operate.

<sup>7</sup> Global Witness (2021) The True Price of Palm Oil ([How global finance funds deforestation in Papua New Guinea | Global Witness](#))

<sup>8</sup> Idb.

<sup>9</sup> Sigite Mukus Oil Palm Project Report on Living Conditions of Employees, 2018.

- c) Require all palm oil operations in Papua New Guinea to meet or exceed industry best practices with regards to protecting ecosystems; avoiding deforestation; upholding community and human rights, including worker rights; and ethical and transparent business dealings.

### **Right to Information**

25. Contract transparency and accountability are lacking on the part of the developer. Sufficient information is lacking with regard to the size of plantation land, size of harvests, export volumes, and sales prices, as well as profits earned by the developer. Furthermore, the company is not conducting landowner consultations or regularly providing public information on the state of progress of the activities that are relevant for stakeholders. Thus, landowners have been left without proper information.

### **26. Recommendations to the Government of PNG:**

- a) Provide fair compensation for business sector activities that have negative environmental or social impact on the land and resources of traditional landowners to ensure that their rights to property and rights to a clean, healthy, and sustainable environment are duly respected.
- b) Promote engagement with local communities in the decision-making process of any business sector development.

### **Cultural Rights**

27. Land is essential to the social, cultural, and spiritual development of Indigenous people and for them to uphold their identity and sense of belonging. People do not only own the land, but it is an integral part of their lives. In the area of the Sigite Mukus Oil Palm project there are many sacred sites, including places where traditional spirits live, former village sites or burial places. Palm oil plantations like the Sigite Mukus Project have been extended onto sacred sites without any consultation with the local people and without any consideration for the importance and significance of such sites to the local people. Quite obviously there is a lack of respect for the cultural heritage and indigenous rights of local people within the project area.

### **28. Recommendations to the Government of PNG:**

- a) Develop legislation that would fully recognize and protect Indigenous peoples' rights in line with the principles and standards outlined in the UN Declaration on the Rights of Indigenous People.

## **SECTION III**

### **Case Study: Yule Island (Ravao) – Land Rights, Customary Ownership, and Climate Justice**

29. Yule Island, historically known as Ravao, is located in Central Province of Papua New Guinea and has been continuously occupied under customary tenure by the Roro people.

The island is culturally, environmentally, and economically significant, with its land and surrounding marine ecosystems forming a critical nexus for subsistence livelihoods, biodiversity, and climate resilience.

30. This case study examines customary land rights, Free, Prior and Informed Consent (FPIC), Indigenous ownership, and climate justice concerns, including the protection of coral reefs, mangroves, and Hall Sound Bay. It aligns with UPR recommendations and Papua New Guinea's obligations under international law, including ICCPR, ICESCR, CEDAW, CERD, CRC, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

## A. Land Rights and Customary Ownership

### Historical and Legal Context

31. Yule Island (Ravao) has been traditionally owned by the Roro people, whose continuous occupation predates colonial administration. Early British New Guinea patrol reports, ethnographic records, and Australian administration archives consistently identify the Roro as customary custodians, reflecting established systems of governance, land use, and cultural practice.<sup>10</sup>

32. State involvement is reflected in National Gazette G100 of 1977 and National Gazette G64 of 29 January 2025 (Notice of Intention to Acquire). These instruments indicate administrative intent but do not constitute lawful acquisition or extinguishment of customary ownership. The Land Act 1996 requires due process, including identification of land boundaries, consultation with all customary owners, compensation, and compliance with FPIC.<sup>11</sup>

33. Customary land is constitutionally protected under Section 53 of the Constitution, and ownership is communal and inalienable, except in accordance with law. Judicial precedent confirms that administrative notices alone cannot override customary title.<sup>12</sup> International standards under UNDRIP Articles 26 and 28 further require legal recognition, protection, and redress where land is taken without consent.<sup>13</sup>

### FPIC and Consultation Gaps

34. The Notice of Intention to Acquire (G64, 2025) highlights risks of misinterpretation, where administrative actions are perceived as *de facto* acquisition. Community reports indicate that no comprehensive FPIC process was undertaken, with limited and selective consultations excluding sections of customary landowners.<sup>14</sup>

35. This constitutes non-compliance with UNDRIP Articles 10, 19, and 32(2), which require good faith consultation and the obtaining of free and informed consent prior to any

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<sup>10</sup> British New Guinea patrol reports; early ethnographic records on Roro occupation.

<sup>11</sup> Land Act, 1996 (PNG).

<sup>12</sup> Constitution of Papua New Guinea, Section 53; PNG Supreme Court, *Taroa v State*, 2015

<sup>13</sup> UNDRIP Articles 3, 4, 10, 18, 19, 25, 26, 28, 29, 32; ICCPR Articles 1–27; ICESCR Articles 11, 15; CEDAW Articles 14, 15.

<sup>14</sup> Community consultation reports, PNG, 2024.

project affecting Indigenous lands.<sup>15</sup> OHCHR and EMRIP further clarify that FPIC is a substantive safeguard against dispossession, not a procedural formality.<sup>16</sup>

36. The failure to implement FPIC also engages violations under ICCPR (self-determination and participation), ICESCR (livelihoods and cultural rights), and CEDAW (participation of Indigenous women).<sup>17</sup>

### **Participation, Self-Determination and Governance**

37. UNDRIP affirms the right of Indigenous peoples to participate in decision-making (Articles 18 and 19) and to self-determination and self-governance (Articles 3 and 4).<sup>18</sup> EMRIP guidance emphasizes that Indigenous institutions must be central to decisions affecting their lands and resources.<sup>19</sup>

38. On Yule Island, the absence of structured, inclusive engagement and the marginalization of customary leadership in land-related decision-making undermine these rights and weaken Indigenous governance systems.

### **Environmental, Cultural, and Social Considerations**

39. Yule Island is ecologically sensitive, with coral reefs, mangroves, and coastal forests supporting biodiversity, food security, and climate resilience. These ecosystems are integral to the cultural identity and subsistence practices of the Roro people.<sup>20</sup>

40. Archival and community records identify burial grounds and sacred sites requiring protection under domestic law, including the Environment Act 2000 and Climate Change (Management) Act 2015.<sup>21</sup> UNDRIP Articles 25 and 29 further affirm the rights of Indigenous peoples to maintain their spiritual relationship with land and to conserve their environment.<sup>22</sup>

41. Although large-scale development has not commenced, the Notice of Intention to Acquire creates insecurity and risks future dispossession, environmental degradation, and loss of cultural heritage.

### **42. Recommendations – Land Rights:**

- a) Conduct full and inclusive FPIC processes with all Roro clans prior to any land acquisition or development activity, consistent with UNDRIP Articles 10, 19, and 32(2).
- b) Recognize and enforce continuous customary ownership of Yule Island under Section 53 of the Constitution and the Land Act 1996, consistent with UNDRIP Articles 26 and 28.

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<sup>15</sup> UNDRIP Articles 3, 4, 10, 18, 19, 25, 26, 28, 29, 32; ICCPR Articles 1–27; ICESCR Articles 11, 15; CEDAW Articles 14, 15.

<sup>16</sup> OHCHR, *Free, Prior and Informed Consent of Indigenous Peoples* (2023); EMRIP, A/HRC/EMRIP/2018/3/Rev.1.

<sup>17</sup> UNDRIP Articles 3, 4, 10, 18, 19, 25, 26, 28, 29, 32; ICCPR Articles 1–27; ICESCR Articles 11, 15; CEDAW Articles 14, 15.

<sup>18</sup> *Idem*.

<sup>19</sup> Commonwealth Secretariat, *Biodiversity and Climate Resilience in Melanesia*, 2020.

<sup>20</sup> *Idem*.

<sup>21</sup> Environment Act 2000; Climate Change (Management) Act 2015; Yule Island archival records, 2024.

<sup>22</sup> UNDRIP Articles 3, 4, 10, 18, 19, 25, 26, 28, 29, 32; ICCPR Articles 1–27; ICESCR Articles 11, 15; CEDAW Articles 14, 15.

- c) Establish legal safeguards to prevent administrative instruments from being treated as *de facto* acquisition without due process and consent.
- d) Ensure transparency through public disclosure of proposed projects, environmental impact assessments, and compensation frameworks.<sup>23</sup>
- e) Guarantee the participation of Indigenous women in all decision-making processes in line with CEDAW obligations.<sup>24</sup>

## B. Climate Justice and Marine Ecosystems

### Marine Biodiversity and Coral Farming

43. Yule Island is surrounded by coral reefs, seagrass beds, and mangroves that provide food security, coastal protection, and carbon sequestration.<sup>25</sup> These ecosystems are essential to both environmental sustainability and Indigenous livelihoods.

44. Community-led coral farming initiatives, including those documented by ABC Pacific, demonstrate viable pathways for reef restoration and sustainable income generation.<sup>26</sup> Strengthening and scaling such initiatives aligns with climate justice principles and Indigenous economic empowerment.

45. Recent king tide events affecting nearby mainland communities in Central Province further highlight the urgency of locally led climate adaptation strategies.<sup>27</sup>

### Mangrove Protection and Hall Sound Bay

46. Mangrove systems around Yule Island stabilize shorelines, support fisheries, and store significant carbon. Hall Sound Bay, with its extensive mangroves and reefs, presents an opportunity for designation as a protected marine hermitage site.<sup>28</sup> Such protection would reinforce biodiversity conservation, cultural preservation, and Indigenous stewardship while mitigating the impacts of rising sea levels and coastal flooding.

### 47. Recommendations – Climate Justice

- a) Establish Hall Sound Bay and surrounding ecosystems as a legally protected marine hermitage site.
- b) Expand and support community-led coral farming and sustainable marine management practices.
- c) Integrate climate justice and Indigenous rights into environmental governance frameworks.
- d) Strengthen monitoring and enforcement mechanisms for marine conservation.
- e) Promote education and awareness on biodiversity, climate resilience, and Indigenous stewardship.

<sup>23</sup> PNG Government transparency and public disclosure guidelines.

<sup>24</sup> CEDAW Articles 14, 15.

<sup>25</sup> Commonwealth Secretariat, *Biodiversity and Climate Resilience in Melanesia*, 2020

<sup>26</sup> ABC Pacific (ABC Australia), “Common Cause: The Coral Gardeners,” 29 January 2026.

<sup>27</sup> Central Provincial Government, “Relief Supplies to Kairuku Villages Hit by King Tides,” 13 March 2025; Inside PNG, “Villagers Displaced by Ongoing King Tides,” 2 March 2025.

<sup>28</sup> Conservation International, *Mangrove Protection and Community Stewardship*, 2021.

## SECTION IV

### Case Study: Motu Koita (Port Moresby) – Urbanization, Customary Land, and Indigenous Peoples’ Rights

48. The Motu, Koita (Koitabu), and Koiari peoples are the customary landowners of the area now known as Port Moresby in the National Capital District (NCD) of Papua New Guinea (PNG). Customary tenure remains the dominant form of landholding in PNG and is recognized under the Constitution and relevant laws.<sup>29</sup> The establishment and expansion of Port Moresby under colonial administration and, later, as the national capital, has resulted in extensive alienation and use of Motu Koita customary land for public infrastructure, commercial development, and urban expansion. These processes have often occurred without effective participation of customary landowners, without robust Free, Prior and Informed Consent (FPIC) procedures, and without adequate benefit-sharing or remedies.

49. International standards, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), guidance from the Office of the High Commissioner for Human Rights (OHCHR),<sup>30</sup> and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP),<sup>31</sup> provide clear frameworks to uphold Indigenous rights in urban and development contexts. These standards emphasize FPIC, protection of land and cultural rights, participation in decision-making, self-determination, and safeguarding of environments and cultural heritage.

#### A. Exclusion, Governance, and FPIC Violations

50. Motu Koita landowners report systematic exclusion from urban governance and planning processes affecting their customary lands. For instance, invitations for the 7th Pacific Urban Forum (Port Moresby, 24–26 March 2026) were issued after the event, effectively denying customary representatives’ meaningful participation. Such practices are inconsistent with PNG’s obligations under the ICCPR (art. 25)<sup>32</sup> and ICESCR (art. 1) concerning participation in public affairs and self-determination, as well as UNDRIP Articles 18 and 19, which require consultation through representative institutions and the obtaining of FPIC before adopting measures affecting Indigenous lands and resources.

51. FPIC is explicitly articulated in UNDRIP Article 32(2) and Article 10, which prohibit actions that remove Indigenous peoples from their lands without consent and equitable compensation. OHCHR emphasizes that FPIC safeguards collective Indigenous rights and prevents dispossession, while EMRIP clarifies that FPIC is a substantive requirement, not a procedural formality. In Port Moresby, the absence of robust FPIC processes has contributed to exclusion from urban decision-making and development initiatives.

#### B. Land Alienation and Legal Issues

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<sup>29</sup> Constitution of the Independent State of Papua New Guinea (1975), recognizing customary law and protections relating to property and participation; Land Act 1996 (PNG) and related land administration and planning laws.

<sup>30</sup> OHCHR, guidance on consultation and FPIC under UNDRIP.

<sup>31</sup> EMRIP, “Free, Prior and Informed Consent: A Human Rights-Based Approach,” A/HRC/EMRIP/2018/3/Rev.1.

<sup>32</sup> International Covenant on Civil and Political Rights (1966) (ICCPR).

52. Colonial-era instruments, including Deeds of Agreement DA 229 and DA 550, facilitated the transfer or lease of customary lands in areas such as Boroko, Bisini, Mt Eriama, and Bomana. Since independence in 1975, Motu Koita landowners have faced barriers in securing recognition of their customary interests, registration pathways, and effective remedies where land has been taken or leased without adequate consultation, compensation, or benefit-sharing.

53. The Motu Koita Assembly Act 2007 establishes the Motu Koita Assembly and includes provisions on prior informed consent and benefit-sharing relating to customary land and resources.<sup>33</sup> However, implementation remains inconsistent, leaving landowners vulnerable to alienation, dispossession, and marginalization. UNDRIP Articles 26 and 28,<sup>34</sup> together with EMRIP guidance, emphasize that recognition of customary land tenure must be substantive and accompanied by remedies for lands taken without consent.

## C. Environmental Degradation and Loss of Livelihoods

54. Urban growth in Port Moresby has intensified pressures on sewerage, sanitation, and waste management, affecting coastal ecosystems and marine-dependent livelihoods. Untreated sewage discharge and plastic pollution have degraded fishing grounds and health conditions in coastal Motu Koita villages, including Vanagi, Vabukori, Pari, Tatana, and Hanuabada. These issues engage the right to health and adequate living standards (ICESCR arts. 11 and 12)<sup>35</sup> and UNDRIP Articles 25 and 29, which protect the spiritual and cultural connection of Indigenous peoples to their lands and waters.

## D. Socio-Economic Marginalization and Cultural Rights

55. Motu Koita communities face ongoing gaps in access to basic services, including water, sanitation, healthcare, education, and electricity, despite the longstanding use of their land for national infrastructure. This reflects a pattern of economic and social marginalization, inconsistent with ICESCR obligations on non-discriminatory access to economic, social, and cultural rights (arts. 2(2), 6, 11–13) and UNDRIP Article 21 on improving Indigenous socio-economic conditions.

56. Urban expansion has also encroached on burial grounds, sacred sites such as Mt Eriama, and culturally significant locations, threatening cultural survival. UNDRIP Articles 11, 12, 25, and 29, alongside OHCHR and EMRIP guidance, highlight the need for protection of cultural heritage, sacred sites, and spiritual relationships with lands and resources.

## E. Self-Determination and Governance

57. Motu Koita landowners have increasingly called for recognition of their political voice and self-determination, including through a referendum to determine their governance status and future within the State. UNDRIP Articles 3 and 4 affirm Indigenous peoples' right to self-determination, autonomy, and governance over internal affairs. These include reviewing the 1976 Gazetted Order designating Arona Valley as the intended location for Port Moresby and reconsidering the city's administrative status relative to Central Province.

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<sup>33</sup> Motu Koita Assembly Act 2007 (PNG), Part 7 on access to customary land and natural resources (prior informed consent and benefit sharing).

<sup>34</sup> United Nations Declaration on the Rights of Indigenous Peoples (UNGA Res 61/295, 2007).

<sup>35</sup> International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR).

58. The absence of formal mechanisms for dialogue and consultation undermines these rights, leading to progressive dispossession, weakened governance, and reduced ability to exercise authority over land, territory, and resources. EMRIP guidance emphasizes that Indigenous institutions must be central to governance and decision-making processes.

## F. Recommendations

### 59. Recommendations to the Government of PNG:

- a) Ensure inclusive, timely participation of Motu Koita customary landowners through representative institutions in urban planning, land administration, and development decisions (ICCPR art. 25; UNDRIP arts. 18–19).
- b) Adopt clear FPIC procedures for projects, leases, and compulsory acquisitions affecting Indigenous customary lands, including disclosure requirements and independent verification (UNDRIP arts. 19, 32).
- c) Formally domesticate and implement UNDRIP and strengthen engagement with EMRIP, including consideration of technical advice and relevant recommendations.
- d) Ratify and implement ILO Indigenous and Tribal Peoples Convention No. 169.
- e) Strengthen benefit-sharing and compensation mechanisms for public infrastructure and commercial development on customary land (UNDRIP art. 32(3); Motu Koita Assembly Act 2007).
- f) Provide accessible remedies for unlawful land alienation, including judicial review, restitution, or compensation (UNDRIP art. 28; ICCPR art. 2(3)).
- g) Prioritize basic services in Motu Koita villages—safe water, sanitation, healthcare, education—with measurable indicators and non-discrimination safeguards (ICESCR arts. 2(2), 11–13; UNDRIP art. 21).
- h) Protect and map cultural heritage and sacred sites in partnership with customary landowners, preventing harm through consent-based access arrangements (ICCPR art. 27; UNDRIP arts. 11–12).
- i) Consider institutional reforms co-designed with Motu Koita to strengthen land administration, governance, and accountability, including potential trust-style mechanisms for leases and revenue management.
- j) Restore Port Moresby as the capital city of Central Province to remedy historical marginalization and reaffirm customary governance rights.

## G. Conclusion

60. The Motu Koita case demonstrates that rapid urbanization and capital-city development without FPIC, inclusive participation, benefit-sharing, or accessible remedies risks dispossession, socio-economic marginalization, and erosion of Indigenous governance. Aligning development with international standards, including UNDRIP, OHCHR, and EMRIP guidance, requires reforms co-designed with Motu Koita landowners. Immediate action is needed to establish dialogue mechanisms, review historical administrative decisions, implement FPIC-aligned processes, and ensure the right to self-determination is respected, including consideration of a referendum or other consultative mechanisms.